

Message Text

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ORIGIN AGR-08

INFO OCT-01 EA-07 IO-10 ISO-00 EB-07 TRSE-00 STR-04 LAB-04

COME-00 FEA-01 CEA-01 CIAE-00 DODE-00 FRB-03 H-02

INR-07 INT-05 L-03 NSAE-00 NSC-05 PA-01 AID-05

CIEP-01 SS-15 TAR-01 USIA-06 PRS-01 SP-02 OMB-01 /101 R

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AGRI/FAS/ITP:GHWHITE

AGRI/FAS/FCA:ANDERSON

TREASURY:MFELDMAN

STR:JSTARKEY

LABOR:FLAVALL-EB/OT/TA:DGRIMMER

COMMERCE:CROE

EB/OF:FMCELDFOWNEY

EB/OT/TA:TFO'HERRON

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FM SECSTATE WASHDC

TO USDEL MTN GENEVA

INFO AMEMBASSY CANBERRA

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E.O. 11652:N/A

TAGS: ETRD, GATT

SUBJECT: QR CONSULTATIONS WITH AUSTRALIA

REF: MTN GENEVA 7953

1. RE PARA 2A REFTL, CONSULTATIONS ON U.S. MEAT IMPORT LAW
CONDUCTED IN COMMITTEE II IN FEBRUARY 1965 (GATT DOC
L/2384 MARCH 13, 1965). AT THAT TIME U.S. STATED
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PROBLEM OF GATT LEGALITY DOES NOT ARISE UNLESS AND UNTIL

QUOTAS AUTHORIZED IN THE LAW BECOME APPLICABLE.
COMMITTEE AGREED THAT QUESTIONS OF WHETHER LAW IN
ACCORDANCE WITH GATT NOT WITHIN ITS TERMS OF REFERENCE.

2. MEAT IMPORT LAW DISCUSSED IN DETAIL AT MEETING
OCTOBER 6-10, 1975 OF MEAT SUBGROUP AT WHICH AUSTRALIANS
WERE PRESENT. USDA TECHNICAL ADVISOR WHO ATTENDED
MEETING STATES QUESTION OF GATT LEGALITY WAS RAISED.
U.S. RESPONSE AGAIN WAS THAT THE PROBLEM DOES NOT ARISE
UNLESS AND UNTIL QUOTA PROVISIONS IMPLEMENTED.

3. RE PARA 2B REFTTEL, YOU MAY INFORM AUSTRALIAN
OFFICIALS THAT STANDARD U.S. POLICY REGARDING PROSPECTIVE
SHORTFALLS IN UTILIZATION OF DAIRY IMPORT QUOTAS IS TO
AMEND OUTSTANDING IMPORT LICENSES UPON REQUEST AND TO
REDESIGNATE THE COUNTRY OF ORIGIN ON THE BASIS OF PROVEN
NON-AVAILABILITY IN THE COUNTRY HOLDING THE QUOTA.
THIS IS DONE IN ACCORD WITH THE PROVISIONS OF SECTION
6.33 OF SUBTITLE A, TITLE 7, CODE OF FEDERAL REGULATIONS,
AS FOLLOWS: (A) "ANY PERSON TO WHOM A LICENSE HAS BEEN
ISSUED FOR AN ARTICLE, UPON SUBMISSION OF PROOF
SATISFACTORY TO THE ADMINISTRATOR OR HIS DESIGNEE THAT
SAID LICENSEE WILL BE ABLE TO OBTAIN HIS QUOTA SHARE
OF SUCH ARTICLE FROM THE COUNTRY OF ORIGIN SPECIFIED
IN SUCH LICENSE, MAY BE AUTHORIZED TO OBTAIN HIS QUOTA
OF SUCH ARTICLE FROM OTHER COUNTRIES SPECIFIED IN PART 3
OF THE APPENDIX TO THE TARIFF SCHEDULES OF THE UNITED
STATES AS COUNTRIES OF ORIGIN FOR SUCH ARTICLE."
(B) "TO THE EXTENT IT IS DETERMINED THAT QUANTITIES
OF ARTICLES ARE NOT LIKELY TO BE ENTERED FROM ANY
PARTICULAR COUNTRY OF ORIGIN DURING A CALENDAR YEAR,
THE QUOTA FOR SUCH COUNTRY WILL BE REDUCED FOR SUCH
ARTICLE FOR SUCH YEAR AND THE QUOTAS FOR OTHER COUNTRIES
OF ORIGIN FOR SUCH ARTICLE SHALL BE INCREASED FOR SUCH
YEAR. IN MAKING SUCH ADJUSTMENT, DUE ACCOUNT SHALL BE
GIVEN TO THE PROPORTION OF SUCH ARTICLES SUPPLIED BY
SUCH OTHER COUNTRIES OF ORIGIN DURING THE RESPECTIVE
REPRESENTATIVE PERIODS AND TO ANY SPECIAL FACTORS WHICH
MAY HAVE AFFECTED OR MAY BE AFFECTING THE TRADE IN THE
ARTICLES CONCERNED."

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4. PROOF OF NON-AVAILABILITY, THE CRITICAL FACTOR IN
REALLOCATION OF SECTION 22 LICENSES, IS OBVIOUSLY
SOMETIMES DIFFICULT TO EVALUATE. FOR EXAMPLE, ALTHOUGH
A PRODUCT MAY BE PHYSICALLY AVAILABLE FOR EXPORT IN THE
QUOTA COUNTRY, U.S. IMPORT LICENSES MAY NOT BE UTILIZED
BECAUSE THE EXPORT PRICE IS TOO HIGH TO BE COMPETITIVE
IN U.S. MARKET OR, FOR ITEMS CONTROLLED BY THE IMPORT

PRICEBREAK, IS ABOVE THE PRICEBREAK. SINCE BOTH FOREIGN EXPORT PRICES AND U.S. MARKET PRICES ARE SUBJECT TO CONTINUING CHANGE, PREMATURE REALLOCATION MIGHT RESULT IN UNFAIR DENIAL OF ORIGINAL COUNTRY'S QUOTA. ACCORDINGLY, THE U.S. REGULARLY CONSULTS THE QUOTA COUNTRY BEFORE ACTING UPON REQUESTS BY IMPORTERS FOR LICENSE TRANSFER.

5. FYI. THE EXISTENCE THIS YEAR OF COUNTERVAILING DUTY ACTIONS IN VARYING STAGES OF COMPLETION HAS GREATLY COMPLICATED THE PROBLEM OF TRANSFERS. BECAUSE OF THE GREAT SENSITIVITY OF THE ISSUES AND THE UNIQUE AND TEMPORARY CHARACTER OF THE CONSIDERATIONS INVOLVED, THE U.S. HAS BEEN PARTICULARLY CAREFUL IN PROCESSING IMPORT TRANSFER REQUESTS, INCLUDING IN SOME CASES CONDUCT OF CONSULTATIONS AT THE POLICY LEVEL.
END FYI. INGERSOLL

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